



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Introduce Ordinance Amending Lodi Municipal Code Chapter **13.16**, "Solid Waste," by Repealing and Reenacting Section **13.16.010** Definitions

MEETING DATE: August **6, 2008**

PREPARED BY: Public Works Director

RECOMMENDED ACTION: Approve the introduction of an ordinance amending Chapter 13.16, "Solid Waste," by repealing and reenacting Section 13.16.010 Definitions to the Lodi Municipal Code (LMC).

BACKGROUND INFORMATION: Lodi Municipal Code (LMC) chapter 13.16 regarding solid waste establishes the City's exclusive right to collect solid waste within the City and this function has been contracted to Central Valley Waste Services (CVWS). This contract covers all residential and commercial solid waste but does not include industrial solid waste.

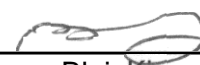
The determination of whether a customer is industrial or commercial is typically made by the Public Works Director as the designee of the City Manager and all industrial customers must be approved by the Public Works Director. By definition (LMC 13.16.010J), industrial waste "means solid waste originating from manufacturing facilities including construction and demolition projects." The intent of the ordinance is that an industrial customer operating within Lodi is primarily a manufacturing facility over and above other activities that may occur at the site. The action requested of Council is to add the words "within the City limits" to the definition of "industrial waste" but the Council is not being asked to make a determination of whether a business is a commercial customer or an industrial customer.

As a matter of practice, one of the four City-permitted industrial haulers submits a written request for the determination that a specific business is an industrial customer. This process was established in the City's Policies and Procedures Solid Waste Policy No. 2, attached as Exhibit A. Since initiation of the Policy in September 2002, a total of 35 determinations have been requested, of which four have been denied. A summary of the requests is provided as Exhibit B.

At issue is whether a customer with a manufacturing facility outside of the City of Lodi and a commercial warehouse facility within the City can contract with a City-permitted industrial hauler to collect solid waste from both facilities. The policy and ordinance are not specific to this situation and the proposed ordinance wording would clarify that the warehouse facility must be determined to be an industrial customer before a City-permitted industrial hauler would be allowed to service the warehouse facility. As mentioned above, the warehouse facility would have to be primarily a manufacturing facility far exceeding the warehousing operation in order to be determined as an industrial customer.

At the July 16 City Council meeting, this item was tabled to allow staff to bring additional information to the City Council regarding existing warehousing commercial solid waste service and to facilitate discussions with California Waste Services and California Waste Recovery. This information will be

APPROVED:


Blair King, City Manager

presented to Council at the meeting. At any rate, to accurately reflect the intent of the current ordinance, the definition of "industrial waste" which is to mean solid waste originating in the City, a revision is needed under Section 13.16.010 C and J. The attached Exhibit C presents the modifications to LMC that would make up the reenacted code. The changes are:

- Revise definition of "industrial waste" to make it clear that waste must originate within City limits to be classified as industrial waste. For example, manufacturing businesses outside of the City limits that are considered industrial often warehouse their products at locations within the City limits. By revising this definition, it will make it clear that warehousing materials in the City produced by an industrial business outside of the City does not make it exempt from the exclusive solid waste franchise.
- Add definition for construction/demolition waste. Construction/demolition waste is considered industrial waste and is mentioned in both the "industrial customer" and "industrial waste" definitions yet was not included in the definition section of the code.

FISCAL IMPACT: None

FUNDING AVAILABLE: Not applicable.



F. Wally Sandelin
Public Works Director

FWS/bss

Attachments

cc: Thom Sanchez, Central Valley Waste Services



CITY OF LODI

PUBLIC WORKS DEPARTMENT

POLICIES AND PROCEDURES

SOLID WASTE - 2

Commercial/Industrial Determination

9/2002

Purpose/Applications:

The purpose of this policy is to provide a basis for the determination between industrial and commercial solid waste customers.

Definitions:

- **Municipal Code (13.16.010):**

I. **Industrial Customer** – All manufacturing enterprises who generate industrial waste within the City limits. The City Manager or other designee shall determine if a customer is “industrial” or “commercial”.

J. **Industrial Waste** – Solid waste originating from manufacturing facilities and factories including construction and demolition projects. Industrial waste also means solid waste produced by any person, firm or corporation primarily engaged in the business of processing and manufacturing.

- **California integrated Waste Management Board Article 3. §18720:**

(30) “solid waste originating from mechanized manufacturing facilities, factories, refineries, construction and demolition projects, and publicly operated treatment works”.

- **California Revenue and Taxation Code §6377. Tangible personal property; purchase for use by qualified person or certain contractors; manufacturing, recycling, or research and development; application.**

(2) “Manufacturing” means the activity of converting or conditioning property by changing the form, composition, quality, or character of the property for ultimate sale at retail or use in the manufacturing of a product to be ultimately sold at retail. Manufacturing includes any improvements to tangible personal property that result in a greater service life or greater functionality than that of the original property.

- Considering the above definitions, the City classifies the following types of customers as “industrial”. Uses engaged in fabricating or manufacturing may be considered industrial such as:

- Cannery/food processing
- Equipment fabrication
- Building/demolition work (the project or construction site).
- Furniture/fixture manufacturing
- HVAC installers who manufacture the sheet metal on site
- Warehousing in support of manufacturing, but not warehousing by a retail store

Exhibit B

Name of Business	Contact Name	Business Address	Telephone	Classification	Response
Ag Equipment Services	Robert Kelley	133 Commerce Street	367-0950	Industrial	11/5/02
Alexander's Bakery	Judd Cappelletti	1100 W. Lodi Avenue	369-2225	Industrial	12/11/02
American Auto Body	Gary Koepplin	2347 Maggio Circle	334-5289	Industrial	11/05/02
American Master Tech	Donald Jones	1330 Thurman Road	368-4031	Industrial	7/17/03
Anderson Steel	Willy Linton	1803 S. Stockton Street	339-9324	Industrial	11/5/02
Brilliant Furnishing	Steve Mason	1027 Black Diamond Wy, St. C	367-3500	Industrial	1/15/08
BUBCO	Debbie Simmacher	816 B Black Diamond Way	800-474-2532	Industrial	12/3/02
Concrete, Inc.	Robert Hagan	851 E. Lodi Avenue	333-6380	Industrial	11/5/02
Dependable Precision Mfg.	Cliff McBride	1111 S. Stockton Street	369-1055	Industrial	11/5/02
Design Woodworking	David Worfolk	709 N. Sacramento Street	334-6674	Industrial	11/5/02
Finishline Car Audio	Jason Gurney	1300 Auto Center Dr., Suite A	369-3939	Industrial	5/14/07
G.G.Hust and Sons, Inc.	Tina Piazza	20 W. Commerce Street	333-3355	Industrial	11/5/02
Gary's Signs	Gary Markle	1620 S. Ackerman Drive	369-8592	Industrial	12/3/02
George Reed, Inc.	Steve Paoletti	686 E. Lockeford Street	334-0790	Industrial	11/5/02
H. Max Lee, Inc.	Kristen Lee	1250 E. Turner Road	369-8077	Industrial	10/5/04
Halley Woodworks	James Halley	2370 Maggio Cir. Unit 13	607-4296	Industrial	1/09/04
Koehler Heating and Air	Tim Koehler	900 S. Sacramento Street	334-4756	Industrial	11/5/02
L.B. Production Center	Sharon Smith	2488 Maggio Circle	367-3715	Industrial	8/29/05
Lodi Cabinet Sales	Dale Stirm	1004 Industrial Way, Unit C	334-4626	Industrial	
Lodi Glass Service	Jim Garecht	200 E. Lodi Avenue	368-5321	Industrial	11/5/02
Lodi News Sentinel	Theresa Larson	125 N. Church Street	369-2761	Industrial	5/12/04
Lodi Nut Company	Joanne Suess	1230 S. Fairmont	334-2081	Industrial	11/5/02
Lodi Printing Company	Phil Katzakian	2 Louie Avenue	334-4766	Industrial	11/5/02
M&M Graphics	Dixie Mathews	2429 Stockton Street	369-5289	Industrial	7/13/04
Neil O. Anderson Associates	Kandee	902 Industrial Drive	367-3701	Industrial	2/18/04
Northern Electric	Bill Fisher	1115 Black Diamond Way	333-7227	Industrial	7/17/03
Pacific Crane Equip.& Repair	Troy Rifenburg	804 N. Cluff Ave.		Industrial	3/8/05
Pacific Woodwork	Andy Lubniewski	200 Commerce St.		Industrial	1/26/05
Plummer Collision Center	Dan Votaw	127 E. Harney Lane	333-3650	Industrial	11/5/02
Vino Con Brio	Anne Matson	1370 E. Turner Road	369-5392	Industrial	12/8/05
Primo Clean	Leo Volkert	1211 E. Vine Street	333-7272	Industrial	2/27/03

Solid Waste Determination Accepted Businesses

Exhibit B

Solid Waste Determination *Denied* Businesses

Name of Business	Contact Name	Business Address	Telephone	Classification	Response
A.M. Stephens Construction	Jennifer Pike	1717 S. Stockton Street	333-0136	Commercial	9/17/03
Java Stop	Bob Casalegno	321 S. Hutchins	369-9381	Commercial	12/3/02
Mike's Upholstery	Mike Pyle	43 Commerce St.	369-7232	Commercial	12/11/02
Vitalink/Neighborhood Phar	Darlene	927 Industrial Way	333-4900 X 109	Commercial	12/9/02

13.16.010 Definitions.

For the purposes of this chapter, unless otherwise apparent from the context, the following definitions apply:

- A. "Collection" means the act of collecting refuse at the place of waste generation by an approved collection agent (public or private), and is distinguished from "removal."
- B. "Collection vehicle or equipment" means and includes any vehicle or equipment used in the collection of residential refuse or commercial or industrial solid wastes.
- C. "Commercial customers" means all commercial (non-manufacturing) enterprises within the city limits except industrial customers.
- D. "Construction/Demolition waste" means used or discarded materials generated within the city limits during the construction, remodeling, renovation or demolition on residential and commercial buildings and any other structure or pavement.
- E. "Container service" means the type of refuse removal consisting of containers ranging from one cubic yard to fifty cubic yards, typically for large volume refuse generators.
- F. "Contract" means the written agreement covering the performance of the work, including, but not limited to, the formal agreement, and special provisions, affidavits and certificates of equal opportunity employment, certificate of worker's compensation insurance, the proposal, contract specifications and performance bond.
- G. "Contractor" means the individual, partnership, corporation, joint venture or other legal entity entering into a contract with the city to perform the work. When modified by the phrase "as constituted," it means the partnership, corporation or other legal entity as organized and existing, with the same majority shareholders, as determined at the time of the execution of a contract between the contractor and the city.
- H. "Disposal site" means and includes the place, location, tract of land, area or premises in use, intended to be used, or which has been used for the landfill disposal of solid wastes.
- I. "Garden (green) waste" means refuse consisting of grass, leaves, wood chips, green plants, weeds, tree branches and garden trimmings.
- J. "Industrial customer" means all manufacturing enterprises that generate industrial waste within the city limits except commercial customers. The city manager or other designee shall determine whether a customer is "industrial" or "commercial".
- K. "Industrial waste" means solid waste originating from manufacturing facilities and factories within the city limits including construction and demolition projects. Industrial waste also means solid waste produced by any person, firm or corporation primarily engaged in the business of processing and manufacturing for the purpose of wholesale.
- L. "Multi-cart service" means the type of refuse removal designed for source separating into three carts. One cart for non-recyclable materials and non-green waste, one cart for recyclable materials and one cart for green waste. This type of service is generally for lower volume refuse generators with carts of less than one hundred gallons.
- M. "Recycling" means the process by which salvaged materials become usable products.
- N. "Refuse" means any and all discarded items and substances of every kind, including salvageable or recyclable materials, and garden (green) wastes, but not including sewage, septic tank contents, infectious wastes, or hazardous wastes as defined by state and/or federal law.
- O. "Removal" means the act of taking solid wastes from the place of waste generation either by an approved collection agent or by a person in control of the premises.
- P. "Residential customer" means all residences within the city limits, including single-family and multi-family dwellings.
- Q. "Subcontractor" means the individual, partnership or corporation or other legal entity entering into a contract with the contractor to perform a portion of the work.
- R. "Transfer station/resource recovery facility" means and includes those facilities utilized to receive solid wastes, temporarily store, separate, convert or otherwise process the materials in the solid wastes, or to transfer the solid wastes directly from smaller to larger vehicles for transport to their final place of disposition. (Ord. 1709 § 1 (part), 2002)

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
LODI AMENDING LODI MUNICIPAL CODE CHAPTER 13.16,
“SOLID WASTE,” BY REPEALING AND REENACTING
SECTION 13.16.010 DEFINITIONS

=====

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LODI AS FOLLOWS:

Section 1. Lodi Municipal Code Chapter 13.16, “Solid Waste,” is hereby amended by repealing and reenacting Section 13.16.010 Definitions and shall read as follows:

13.16.010 Definitions.

For the purposes of this chapter, unless otherwise apparent from the context, the following definitions apply:

- A. “Collection” means the act of collecting refuse at the place of waste generation by an approved collection agent (public or private), and is distinguished from “removal.”
- B. “Collection vehicle or equipment” means and includes any vehicle or equipment used in the collection of residential refuse or commercial or industrial solid wastes.
- C. “Commercial customers” means all commercial (non-manufacturing) enterprises within the city limits except industrial customers.
- D. “Construction/Demolition waste” means used or discarded materials generated within the city limits during the construction, remodeling, renovation or demolition on residential and commercial buildings and any other structure or pavement.
- E. “Container service” means the type of refuse removal consisting of containers ranging from one cubic yard to fifty cubic yards, typically for large volume refuse generators.
- F. “Contract” means the written agreement covering the performance of the work, including, but not limited to, the formal agreement, and special provisions, affidavits and certificates of equal opportunity employment, certificate of worker’s compensation insurance, the proposal, contract specifications and performance bond.
- G. “Contractor” means the individual, partnership, corporation, joint venture or other legal entity entering into a contract with the city to perform the work. When modified by the phrase “as constituted,” it means the partnership, corporation or other legal entity as organized and existing, with the same majority shareholders, as determined at the time of the execution of a contract between the contractor and the city.
- H. “Disposal site” means and includes the place, location, tract of land, area or premises in use, intended to be used, or which has been used for the landfill disposal of solid wastes.
- I. “Garden (green) waste” means refuse consisting of grass, leaves, wood chips,

green plants, weeds, tree branches and garden trimmings.

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- P. "Residential customer" means all residences within the city limits, including single-family and multi-family dwellings.
- Q. "Subcontractor" means the individual, partnership or corporation or other legal entity entering into a contract with the contractor to perform a portion of the work.
- R. "Transfer station/resource recovery facility" means and includes those facilities utilized to receive solid wastes, temporarily store, separate, convert or otherwise process the materials in the solid wastes, or to transfer the solid wastes directly from smaller to larger vehicles for transport to their final place of disposition.

Section 2 - No Mandatory Duty of Care. This ordinance is not intended to and shall not be construed or given effect in a manner which imposes upon the City, or any officer or employee thereof, a mandatory duty of care towards persons or property within the City or outside of the City so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

Section 3. In the event that any portion of this Ordinance is determined to be invalid or illegal then the entire Ordinance will be repealed and reenacted back to its form prior to September 21, 2005.

Section 4. All ordinances and parts of ordinances in conflict herewith are repealed insofar as such conflict may exist.

Section 5. This ordinance shall be published one time in the "Lodi News Sentinel," a daily newspaper of general circulation printed and published in the City of Lodi, and shall be in force and take effect 30 days from and after its passage and approval.

Approved this ____ day of August, 2008.

Attest:

JOANNE MOUNCE
Mayor

RANDI JOHL
City Clerk

State of California
County of San Joaquin, ss.

I, Randi Johl, City Clerk of the City of Lodi, do hereby certify that Ordinance No. ____ was introduced at a regular meeting of the City Council of the City of Lodi held August 6, 2008, and was thereafter passed, adopted, and ordered to print at a regular meeting of said Council held _____, 2008, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

I further certify that Ordinance No. ____ was approved and signed by the Mayor of the date of its passage and the same has been published pursuant to law.

RANDI JOHL
City Clerk

Approved as to Form:

D. STEPHEN SCHWABAUER
City Attorney

CITY OF LODI

PUBLICWORKS DEPARTMENT

**POLICIES AND
PROCEDURES****Commercial/Industrial Determinations (continued)**

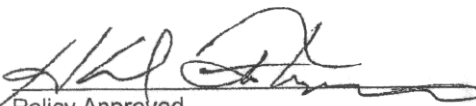
- Incidental retail sales from an industrial customer **would** not automatically result in reclassification to commercial.

Any use defined in the City's zoning code that is allowed within a residential zone is generally not considered industrial (simply being located in an industrial zone does not mean the business is classified as industrial).

- Commercial uses that are only permitted in industrial zones such as **trucking** companies are not considered industrial.
- A list of determinations shall be maintained by the Public Works Department.

Customer Notification: Upon City notification of customer wishing to cancel service with the franchisee, the following notification procedure shall be followed:

- Customer requests reviewed by City Manager Management Analyst
- Customer requests approved by City Manager
- Determination made and recorded
- Determination letter sent to customer, franchisee and other solid waste company if request is initiated by them


Policy Approved

H. Dixon Flynn, City Manager

Introduce Ordinance Amending LMC 13.16 "Solid Waste"

August 6, 2008

April 2, 2008 Council Meeting

Draft Business Points

7) Renewal term:

- a) Seven years
- b) One CVWS option to renew for additional 7 years
- c) Staff recommends that the new term start in 2008

8) Technical ordinance revisions

- a) Industrial customer
- b) Construction & demolition debris

9) Compactor rates

- a) Rate for servicing certain types of trash compactors
- b) Labor intensive

Ordinance Revisions

LMC 13.16.010

- D. "Construction/Demolition waste" means used or discarded materials generated within the city limits during the construction, remodeling, renovation or demolition on residential and commercial buildings and any other structure or pavement.
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Questions

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CITY COUNCIL

JOANNE L. MOUNCE, Mayor
LARRY D. HANSEN,
Mayor Pro Tempore
SUSAN HITCHCOCK
BOB JOHNSON
PHIL KATZAKIAN

CITY OF LODI
PUBLIC WORKS DEPARTMENT

CITY HALL, 221 WEST PINE STREET
P.O. BOX 3006
LODI, CALIFORNIA 95241-1910
(209) 333-6706
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EMAIL pwdept@lodi.gov
<http://www.lodi.gov>

BLAIR KING

City Manager

RANDI JOHL

City Clerk

O. STEVEN SCHWABAUER
City Attorney

F. WALLY SANDELIN
Public Works Director

August 1, 2008

Central Valley Waste Services
Mr. Thom Sanchez
P.O. Box 241001
Lodi. CA 95241

SUBJECT: Introduce Ordinance Amending Lodi Municipal Code 13.16, "Solid Waste,"
by Repealing and Reenacting Section 13.16.010 Definitions

Enclosed is a copy of background information on an item on the City Council agenda of
Wednesday, August 6, 2008. The meeting will be held at 7 p.m. in the
City Council Chamber, Carnegie Forum, 305 West Pine Street.

This item is on the regular calendar for Council discussion. **You** are welcome to attend.

If you wish to write to the City Council, please address your letter to City Council,
City of Lodi, P. O. Box 3006, Lodi, California, 95241-1910. Be sure to allow time for the
mail. Or, you may hand-deliver the letter to City Hall, 221 West Pine Street.

If you wish to address the Council at the Council Meeting, be sure to fill out a speaker's
card (available at the Carnegie Forum immediately prior to the start of the meeting) and
give it to the City Clerk. If you have any questions about communicating with the Council,
please contact Randi Johl, City Clerk, at 333-6702.

If you have any questions about the item itself, please call me at 333-6709.



for: F. Wally Sandelin
Public Works Director

FWS/pmf

Enclosure

cc: City Clerk